

Application No.: 10/054,755
Filed: November 12, 2001
Reply to Office Action of January 24, 2004

AMENDMENTS TO THE DRAWINGS:

The attached sheet of drawings includes changes to FIG. 5, FIG. 6, FIG. 7, FIG. 8, and FIG. 9. This sheet, which includes FIGs. 1-11, replaces the original sheet including FIGs. 1-11. In FIG. 5, FIG. 6, FIG. 7, FIG. 8, and FIG. 9, previously mislabelled numbers have been amended.

Attachment: Replacement Sheet

Annotated Sheet Showing Changes

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REMARKS:**Summary of Amendments**

Claims 1-3 are currently being examined. Applicant has amended claims 2 and 3 to more particularly point out and more distinctively claim the subject matter of this invention. Applicant has also amended the Specification and the Drawings to correct minor errors. These amendments do not add any new matter.

Claim Rejections-35 USC § 112, Second Paragraph

The Examiner rejects claim 3 under 35 U.S.C. § 112, second paragraph as being indefinite for reciting "the piston," and rejects claims 2 and 3 as being indefinite for reciting "means of." Applicant has amended these claims and respectfully submits these amendments overcome the rejections.

Claim Rejection-35 USC § 102

The Examiner rejects claims 1-3¹ under 35 USC § 102(b) as being anticipated by US Patent No. 5,120,206 to Greenstreet *et al.* (Greenstreet).

Each of claims 1-3 is directed to a rotary pump that includes, among others, a cover piston being disposed within a defined space for moving back and forth with respect to an end surface of a rotor. Expressly, the Specification provides: "As shown in FIG. 5, ... A cover piston 81 is engaged with the peripheral wall defining the space 80 in gas tight fashion for reciprocal motion in the thickness direction, namely toward and away from the end surface 31a of the rotor 31" (paragraph [0091], lines 6-9).

Regarding the cover piston, as recited in each of claims 1-3, the Examiner asserts that "Greenstreet discloses a rotary pump comprising: ... a cover piston (73) being disposed within

¹ However, the Examiner only provides the reasoning of rejection for claims 1 and 2. See the Office Action, page 3, line 9.

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said space for movement back and forth with respect to an end surface of said rotor ..." (the Office Action, page 3, lines 13-14). However, the description appearing at column 6, lines 35-52 of Greenstreet clearly states that piston 73, as shown in FIGs. 3 and 6, is an internal piston within a power means, and moves, together with a piston rod, outwardly from a hydraulic cylinder. In other words, Greenstreet discloses a rotary pump including an internal piston (not a cover piston) that moves with respect to a hydraulic cylinder (not an end surface of a rotor). Indeed, as shown in FIGs. 3 and 6 of Greenstreet, rotors appear to have no direct connection to the hydraulic cylinder, let alone the internal piston. Accordingly, Greenstreet provides neither any disclosure of a cover piston being disposed within a defined space for moving back and forth with respect to an end surface of a rotor, nor even a suggestion that a rotary pump can have such a cover piston.

A claim can be rejected under 35 U.S.C. §102 only if each element of the claim is disclosed in a single prior art reference. "A claim is anticipated only if each and every element as set forth in the claim is found, either expressly or inherently described, in a single prior art reference." *Verdegaal Bros. v. Union Oil Co. of California*, 814 F.2d 628, 631, 2 USPQ 1051, 1053 (Fed. Cir. 1987). "The identical invention must be shown in as complete detail as is contained in the ... claim." *Richardson v. Suzuki Motor Co.*, 868 F.2d 1226, 1236, 9 USPQ2d 1913, 1920 (Fed. Cir. 1989).

Greenstreet fails to teach the claimed element of a cover piston, as recited in each of claims 1-3, and therefore, does not anticipate claims 1-3. Furthermore, Greenstreet provides no teaching or suggestion at all of a rotary pump including a cover piston, and therefore, does not render claims 1-3 obvious either.

In view of the foregoing, Applicant respectfully submits that the claim rejection under 35 U.S.C. 102(b) is overcome and withdrawal thereof is requested.

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Conclusion

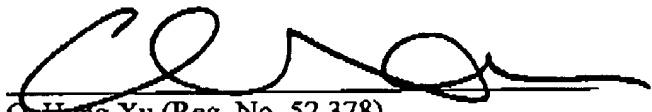
Based on the foregoing amendments and remarks, favorable consideration and allowance of claims 1-3 are respectfully requested.

Should the Examiner require or consider it advisable that the specification, claims and/or drawings be further amended or corrected in formal respects in order to place the case in condition for final allowance, then it is respectfully requested that such amendment or correction be carried out by Examiner's Amendment and the case passed to issue. Alternatively, should the Examiner feel that a personal discussion might be helpful in advancing this case to allowance, the Examiner is invited to telephone the undersigned.

The Commissioner is authorized to charge any required fees, including any extension and/or excess claim fees, any additional fees, or credit any overpayment, to Goodwin Procter LLP Deposit Account No. 06-0923.

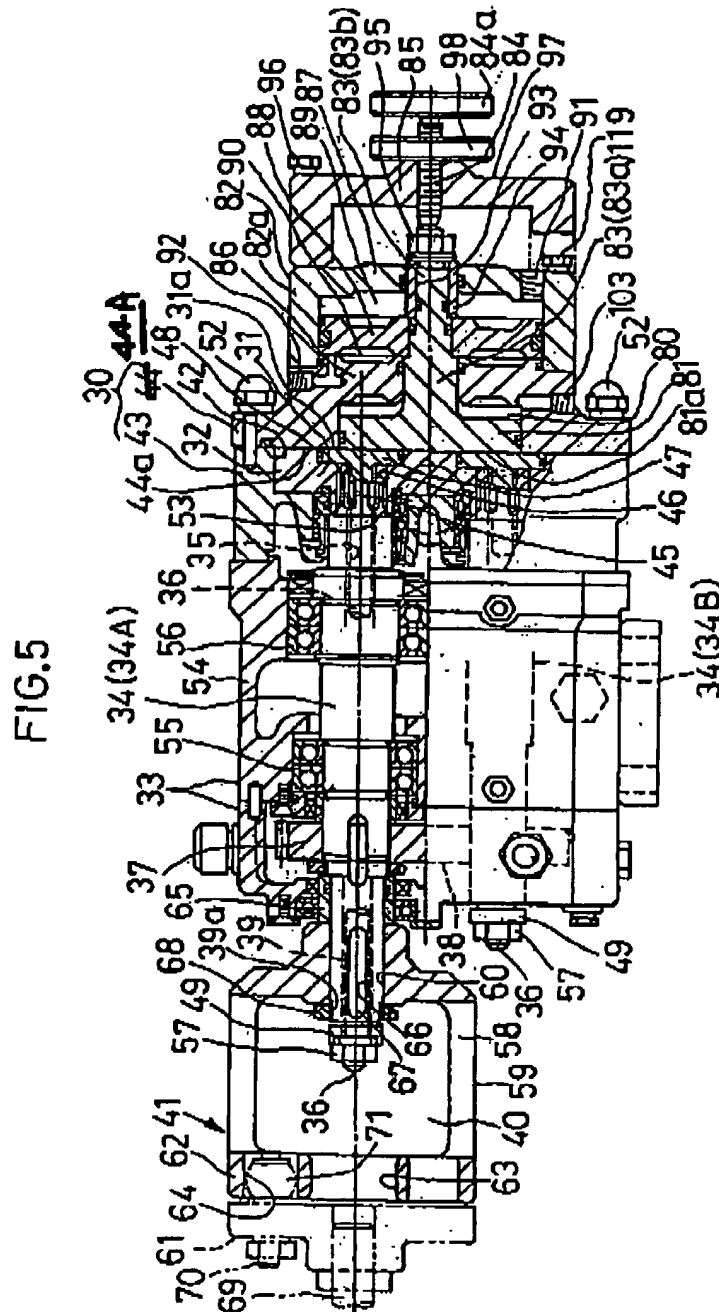
Respectfully submitted,

Date: April 20, 2006


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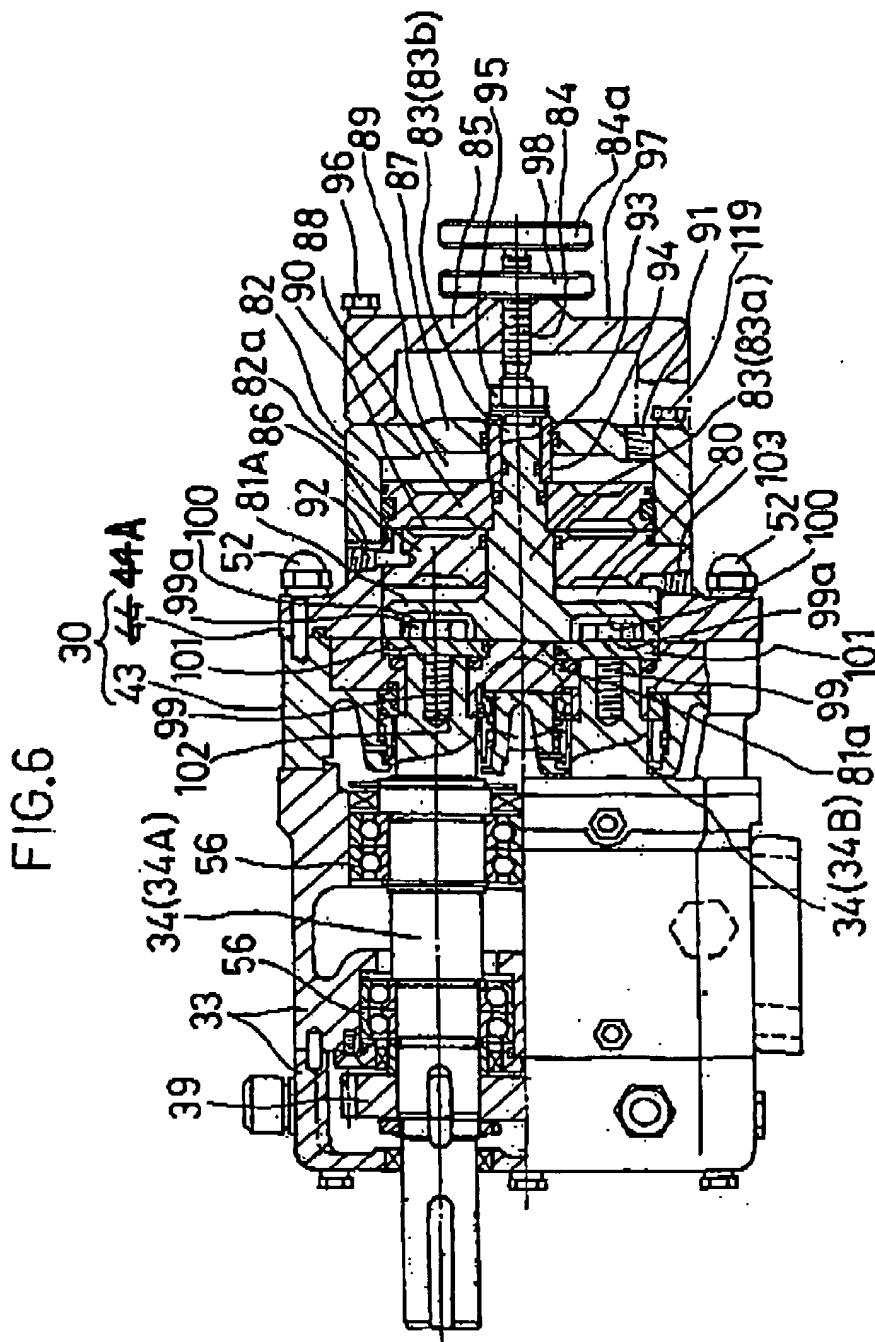
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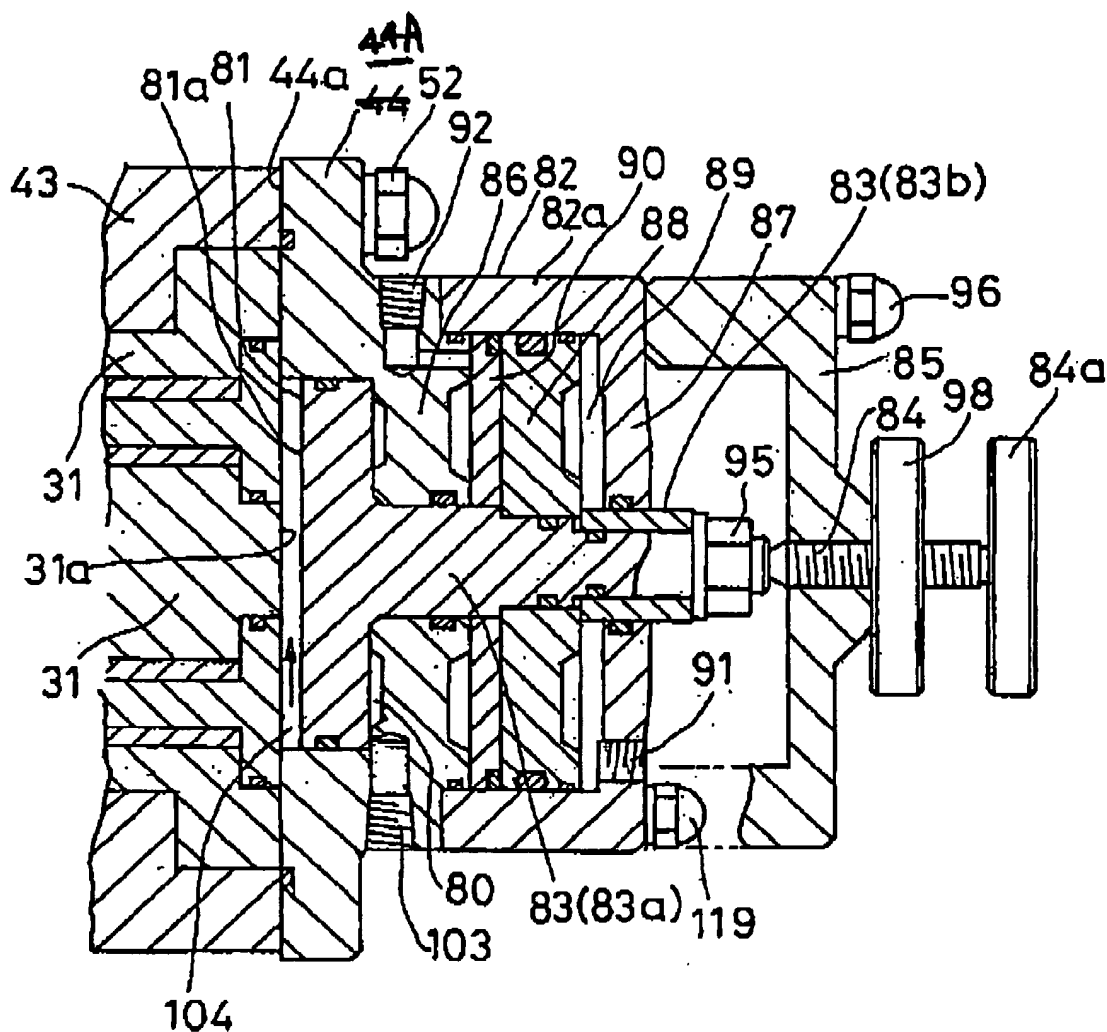
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FIG. 7



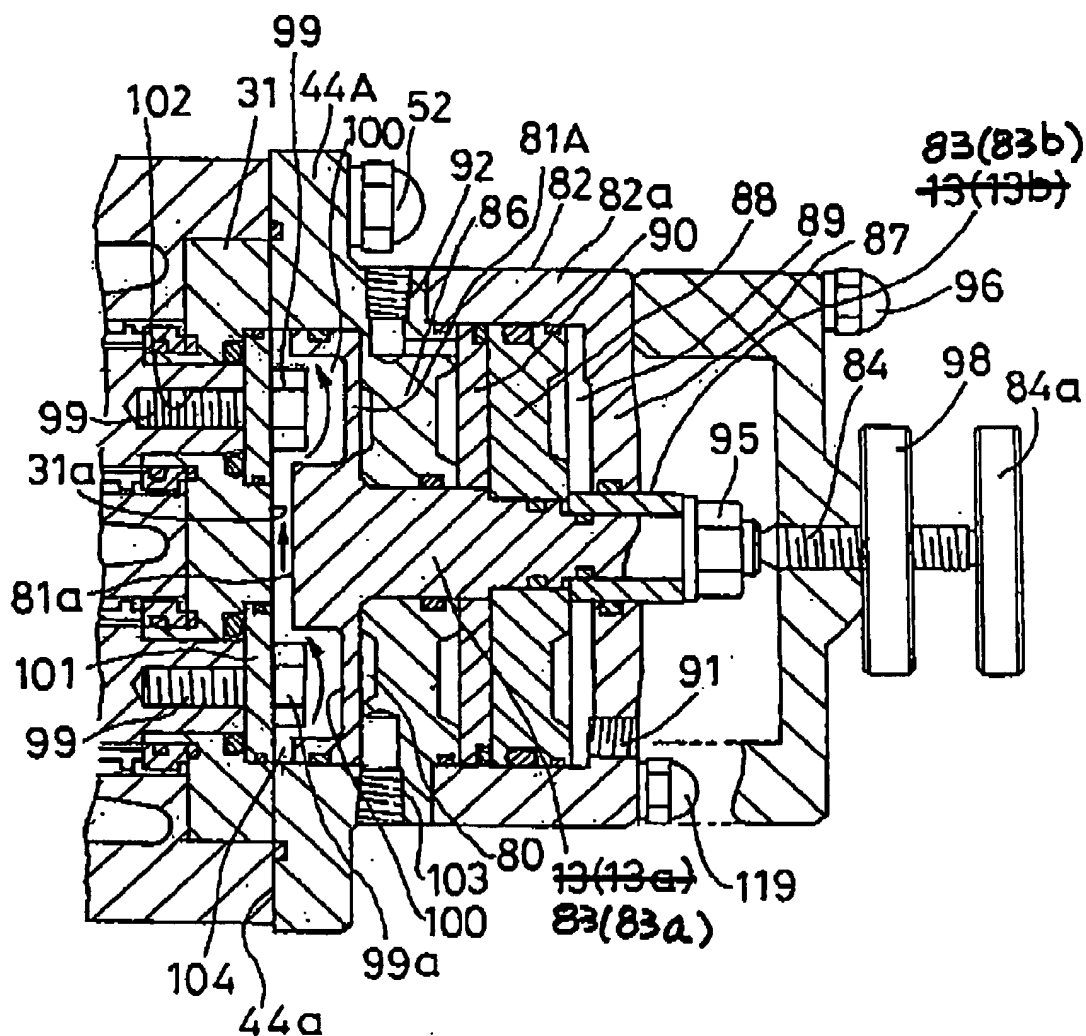
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FIG.8



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FIG.9

